ttorney's Do

DECLARATION AND POWER OF ATTORNEY FOR PATENT APPLICATION

a below named inventor, I hereby declare that:

My residence, post office address and citizenship are as stated below, next to my name.

PATENT PROPERTY OF STREET PROPERTY POOR I believe I am the original, first, and sole inventor (if only one name is listed below) or an original, first, and joint inventor (if plural names are listed below) of the subject matter which is claimed and for which a natent is sought on the invention entitled

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		International App				
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foreign applica	ation(s) for patent ation for patent or	enefits under Title or inventor's certif inventor's certifica	icate listed below	and have also i	identified l	below any
Prior Foreign /	Application(s)				Prio <u>Clain</u>	•
Numbe		Country		Filing Date - D/YYYY)	Yes	No
Numbe	er	Country	(Foreign F MM/DI	Filing Date - D/YYYY)	Yes	No
Numbe	er	Country		Filing Date - D/YYYY)	Yes	No
	the benefit unde	r Title 35, United S below:	States Code, Sect	ion 119(e) of an	y United S	States
Applicat	ion Number	(Filing Date -	- MM/DD/YYYY)			
Applicat	tion Number	(Filing Date -	- MM/DD/YYYY)			

application(s) listed below and, insofar as the subject matter of each of the claims of this application is not disclosed in the prior United States application in the manner provided by the first paragraph of Title 35. United States Code, Section 112. I acknowledge the duty to disclose all information known to me to be material to patentability as defined in Title 37, Code of Federal Regulations, Section 1.56 which became available between the filing date of the prior application and the national or PCT international filing date of this application: (Filing Date - MM/DD/YYYY) Status -- patented, Application Number pending, abandoned (Filing Date - MM/DD/YYYY) Status -- patented, Application Number pending, abandoned I hereby appoint the persons listed on Appendix A hereto (which is incorporated by reference and a part of this document) as my respective patent attorneys and patent agents, with full power of substitution and revocation, to prosecute this application and to transact all business in the Patent and Trademark Office connected herewith. Send correspondence to Stephen M. De Klerk _, BLAKELY, SOKOLOFF, TAYLOR & (Name of Attorney or Agent) ZAFMAN LLP, 12400 Wilshire Boulevard, 7th Floor, Los Angeles, California, 90025, and direct Stephen M. De Klerk , (408) 720-8300. telephone calls to ____ (Name of Attorney or Agent) I hereby declare that all statements made herein of my own knowledge are true and that all statements made on information and belief are believed to be true; and further that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under Section 1001 of Title 18 of the United States Code and that such willful false statements may jeopardize the validity of the application or any patent issued thereon. Full Name of Sole/First Inventor Jorge Fernandes ___ Date Nov. 28 2001 Inventor's Signature Los Altos Hills, Galifornia Citizenship U.S.A. Residence (City, State) (Country) 11871 Hilltop Drive Post Office Address Los Altos Hills, California 94024 Full Name of Second/Joint Inventor Kerry Brown Date Inventor's Signature Residence San Mateo, California Citizenship (City, State)

I hereby claim the benefit under Title 35, United States Code, Section 120 of any United States

-2-

San Mateo, California 94403

1764 Hamlet Street

Post Office Address

APPENDIX A

Ramin Aghevli, Reg. No. 43,462; William E. Alford, Reg. No. 37,764; Farzad E. Amini, Reg. No. 42,261; William Thomas Babbitt, Reg. No. 39,591; Jordan Michael B cker, Reg. No. 39,602; Michael A. Bernadicou, Reg. No. 35,934; Roger W. Blakely, Jr., Reg. No. 25,831; R. Alan Burnett, Reg. No. 46.149; Gregory D. Caldwell, Reg. No. 39,926; Jae-Hee Choi, Reg No. 45,288; Thomas M. Coester, Reg. No. 39,637; Robert P. Cogan, Reg. No. 25,049; Donna Jo Coningsby, Reg. No. 41,684; Florin Corie, Reg. No. 46,244; Mimi Diemmy Dao, Reg. No. 45,628; Dennis M. deGuzman, Reg. No. 41,702; Stephen M. De Klerk, Reg. No. 46,503; Michael Anthony DeSanctis, Reg. No. 39,957; Daniel M. De Vos, Reg. No. 37,813; Justin M. Dillon, Reg. No. 42,486; Sanjeet Dutta, Reg. No. 46,145; Matthew C. Fagan, Reg. No. 37,542; Tarek N. Fahmi, Reg. No. 41,402; Thomas S. Ferrill, Reg. No. 42,532; George Fountain, Reg. No. 37,374; Andre Gibbs, Reg. No. 47,593; James Y. Go, Reg. No. 40,621; Melissa A. Haapala, Reg No. 47,622; Alan Heimlich, Reg. No. 48,808; James A. Henry, Reg. No. 41,064; Libby H. Ho, Reg. No. 46,774; Willmore F. Holbrow III, Reg. No. 41,845; Sheryl Sue Holloway, Reg. No. 37,850; George W Hoover II, Reg. No. 32,992; Eric S. Hyman, Reg. No. 30,139; William W. Kidd, Reg. No. 31,772; Walter T. Kim, Reg. No. 42,731; Eric T. King, Reg. No. 44,188; Steve Laut, Reg. No. 47,736; George Brian Leavell, Reg. No. 45,436; Samuel S. Lee, Reg. No. 42791; Gordon R. Lindeen III, Reg. No. 33,192; Jan Carol Little, Reg. No. 41,181; Julio Loza, Reg. No. 47,758; Joseph Lutz, Reg. No. 43,765; Michael J. Mallie, Reg. No. 36,591; Andre L. Marais, Reg. No. 48,095; Paul A. Mendonsa, Reg. No. 42,879; Clive D. Menezes, Reg. No. 45,493; Richard A. Nakashima, Reg. No. 42,023; Stephen Neal Reg. No. 47,815; Chun M. Ng, Reg. No. 36,878; Thien T. Nguyen, Reg. No. 43,835; Thinh V. Nguyen, Reg. No. 42,034; Robert B. O'Rourke, Reg. No. 46,972; Daniel E. Ovanezian, Reg. No. 41,236; Gregg A. Peacock, Reg. No. 45,001; Marina Portnova, Reg. No. 45,750; Michael A. Proksch, Reg. No. 43,021; Randol W. Read, Reg. No. 43,876; William F. Ryann, Reg. 44,313; James H. Salter, Reg. No. 35,668; William W. Schaal, Reg. No. 39,018; James C. Scheller, Reg. No. 31,195; Jeffrey S. Schubert, Reg. No. 43,098; Saina Shamilov, Reg. No. 48,266; Maria McCormack Sobrino, Reg. No. 31,639; Stanley W. Sokoloff, Reg. No. 25,128; Judith A. Szepesi, Reg. No. 39,393; Ronald S. Tamura, Reg. No. 43,179; Edwin H. Taylor, Reg. No. 25,129; Lance A. Termes, Reg. No. 43,184; John F. Travis. Reg. No. 43,203; Kerry P. Tweet, Reg. No. 45,959; Mark C. Van Ness, Reg. No. 39,865; Tom Van Zandt, Reg. No. 43,219; Brent Vecchia, Reg No. 48,011; Lester J. Vincent, Reg. No. 31,460; Archana B. Vittal, Reg. No. 45.182; Glenn E. Von Tersch, Reg. No. 41,364; John Patrick Ward, Reg. No. 40,216; Mark L. Watson, Reg. No. 46,322; Thomas C. Webster, Reg. No. 46,154; and Norman Zafman, Reg. No. 26,250; my patent attorneys, and Charles P. Landrum, Reg. No. 46,855; Suk S. Lee, Reg. No. 47,745; and Raul Martinez, Reg. No. 46,904, Brent E. Vecchia, Reg. No. 48,011; Lehua Wang, Reg. No. P48,023; my patent agents, of BLAKELY, SOKOLOFF, TAYLOR & ZAFMAN LLP, with offices located at 12400 Wilshire Boulevard, 7th Floor, Los Angeles, California 90025, telephone (310) 207-3800, and James R. Thein, Reg. No. 31,710, my patent attorney with full power of substitution and revocation, to prosecute this application and to transact all business in the Patent and Trademark Office connected herewith.

APPENDIX B

Title 37, Code of Fed ral Regulations, Section 1.56 Duty to Disclos Information Material to Patentability

- (a) A patent by its very nature is affected with a public interest. The public interest is best served, and the most effective patent examination occurs when, at the time an application is being examined, the Office is aware of and evaluates the teachings of all information material to patentability. Each individual associated with the filing and prosecution of a patent application has a duty of candor and good faith in dealing with the Office, which includes a duty to disclose to the Office all information known to that individual to be material to patentability as defined in this section. The duty to disclose information exists with respect to each pending claim until the claim is cancelled or withdrawn from consideration, or the application becomes abandoned. Information material to the patentability of a claim that is cancelled or withdrawn from consideration need not be submitted if the information is not material to the patentability of any claim remaining under consideration in the application. There is no duty to submit information which is not material to the patentability of any existing claim. The duty to disclose all information known to be material to patentability is deemed to be satisfied if all information known to be material to patentability of any claim issued in a patent was cited by the Office or submitted to the Office in the manner prescribed by §§1.97(b)-(d) and 1.98. However, no patent will be granted on an application in connection with which fraud on the Office was practiced or attempted or the duty of disclosure was violated through bad faith or intentional misconduct. The Office encourages applicants to carefully examine:
 - (1) Prior art cited in search reports of a foreign patent office in a counterpart application, and
- (2) The closest information over which individuals associated with the filing or prosecution of a patent application believe any pending claim patentably defines, to make sure that any material information contained therein is disclosed to the Office.
- (b) Under this section, information is material to patentability when it is not cumulative to information already of record or being made of record in the application, and
- (1) It establishes, by itself or in combination with other information, a prima facie case of unpatentability of a claim; or
 - (2) It refutes, or is inconsistent with, a position the applicant takes in:
 - (i) Opposing an argument of unpatentability relied on by the Office, or
 - (ii) Asserting an argument of patentability.

A prima facie case of unpatentability is established when the information compels a conclusion that a claim is unpatentable under the preponderance of evidence, burden-of-proof standard, giving each term in the claim its broadest reasonable construction consistent with the specification, and before any consideration is given to evidence which may be submitted in an attempt to establish a contrary conclusion of patentability.

- (c) Individuals associated with the filing or prosecution of a patent application within the meaning of this section are:
 - (1) Each inventor named in the application;
 - (2) Each attorney or agent who prepares or prosecutes the application; and
- (3) Every other person who is substantively involved in the preparation or prosecution of the application and who is associated with the inventor, with the assignee or with anyone to whom there is an obligation to assign the application.
- (d) Individuals other than the attorney, agent or inventor may comply with this section by disclosing information to the attorney, agent, or inventor.
- (e) In any continuation-in-part application, the duty under this section includes the duty to disclose to the Office all information known to the person to be material to patentability, as defined in paragraph (b) of this section, which became available between the filing date of the prior application and the national or PCT international filing date of the continuation-in-part application.

E Attorney's Docket No.: 005641.P001

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Patent

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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

re Patent Application of:

Jorge Fernandes, et al.

Examiner: Not Yet Assigned

Application No.: 09/837,115

Art Unit: 2164

Filed: April 17, 2001

For: TRANSACTIONS USING A

RE-PROGRAMMABLE DATA

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Technology Center 2100

Assistant Commissioner for Patents Washington, D.C. 20231

STATEMENT OF FACTS BY JORGE FERNANDES AND KERRY BROWN UNDER 37 C.F.R. § 1.48(a)

Dear Sir:

We hereby declare:

- 1. We are making this Statement of Facts under 37 C.F.R. § 1.48(a) in connection with U.S. Patent Application Serial No. 09/837,115 filed April 17, 2001 (hereinafter referred to as "the present patent application").
- 2. We are citizens of the United States of America and currently reside at the following addresses:
- (a) Jorge Fernandes, having a residence address of 11871 Hilltop Drive, Los Altos Hills, California, 94024; and
- (b) Kerry Brown, having a residence address of 1764 Hamlet Street, San Mateo, California, 94403.

Application No.: 09/837,115 -1 - Attorney's Docket No.: 005641.P001

3. The error was made by naming only Kerry Brown as a single inventor, rather

than naming Jorge Fernandes and Kerry Brown as joint inventors.

4. The inventorship error was made without any deceptive intent whatsoever

by anyone.

5. It is now requested that the additional inventor, Jorge Fernandes, be added to

the present patent application.

6. It is also now requested that the inventors be listed in order so that Jorge

Fernandes is the first inventor.

We declare that all statements made herein or my own knowledge are true and

that all statements made on information and belief are believed to be true, and further

that these statements were made with knowledge that willful false statements and the

like so made are punishable by fine or imprisonment or both under Section 1001 of Title

18 of the United States Code, and that such willful false statements may jeopardize the

validity of the application or any patent issued thereon.

Dated: <u>Vov 2,8</u>, 2001

Dated: Nov 2-8 .2001

Kommi Provin

COPY OF PAPERS ORIGINALLY FILED

Washington, DC 20231-9998

kttorney's Docket No.: 005641.P001 <u>Patent</u> TC 200 TAIL ROOM IN THE UNITED STATES PATENT AND TRADEMARK OFFICE e Patent Application of: Jorge Fernandes, et al. Examiner: Not Yet Assigned Application No.: 09/837,115 Art Unit: 2164 Filed: April 17, 2001 TRANSACTIONS USING A For: **RE-PROGRAMMABLE DATA** CARD **Assistant Commissioner of Patents**

ASSENT OF ASSIGNEE UNDER 37 C.F.R. § 3.73(B) FOR CORRECTION OF INVENTORSHIP

Dear Sir:

Attached please find copies of the following title documents:

- The Recordation of Assignment document that is currently on file with the
 U.S. Patent and Trademark Office from Kerry Brown to I-Borg, Inc.; and
- 2. The executed Assignment from I-Borg, Inc. to ViVOtech, Inc. The Assignment document is being submitted to provide evidence of chain of title for this application, and as evidence that Kerry Brown's interest now vests in ViVOtech, Inc.

Assignee, ViVOtech, Inc., a Delower corporation having a place of business at 11871 Hilltop Drive, Los Altos Hills, California, 94024, does hereby assent to the correction of inventorship, the petition for which is filed herewith, which seeks to add Jorge Fernandes as an additional inventor in the above-referenced application. The

Application No.: 09/837,115 1 Attorney's Docket No.: 005641.P001

undersigned, Jorge Fernandes, CEO of ViVOtech, Inc., does hereby declare, under penalty of perjury, that he is authorized by ViVOtech, Inc. to make this Assent of Assignee for Correction of Inventorship.

Respectfully submitted,

Dated: 1/0/28, 2001

Application No.: 09/837,115

Jorge Fernandes

ViVOtech, Inc.

ENTERED

JUL 3 7 2001



UNITED STATES DEPARTMENT OF COMMERCE Patent and Trademark ffice

ASSISTANT SECRETARY AND COMMISSIONER OF PATENTS AND TRADEMARKS Washington, D.C. 20231

STATUS DB-L2001

BLAKELY SOKOLOFF TAYLOR & ZAF LISA N. BENADO 12400 WILSHIRE BLVD., 7TH FLO LOS ANGELES, CA 90025

JUL 27 2001

BLAKELY, SOKULOFF,

UNITED STATES PATENT CAND TRADEMARK OFFICE NOTICE OF RECORDATION OF ASSIGNMENT DOCUMENT

THE ENCLOSED DOCUMENT HAS BEEN RECORDED BY THE ASSIGNMENT DIVISION OF THE U.S. PATENT AND TRADEMARK OFFICE. A COMPLETE MICROFILM COPY IS AVAILABLE AT THE ASSIGNMENT SEARCH ROOM ON THE REEL AND FRAME NUMBER REFERENCED BELOW.

PLEASE REVIEW ALL INFORMATION CONTAINED ON THIS NOTICE. THE INFORMATION CONTAINED ON THIS RECORDATION NOTICE REFLECTS THE DATA PRESENT IN THE PATENT AND TRADEMARK ASSIGNMENT SYSTEM. IF YOU SHOULD FIND ANY ERRORS OR HAVE QUESTIONS CONCERNING THIS NOTICE, YOU MAY CONTACT THE EMPLOYEE WHOSE NAME APPEARS ON THIS NOTICE AT 703-308-9723. PLEASE SEND REQUEST FOR CORRECTION TO: U.S. PATENT AND TRADEMARK OFFICE, ASSIGNMENT DIVISION, BOX ASSIGNMENTS, CG-4, 1213 JEFFERSON DAVIS HWY, SUITE 320, WASHINGTON, D.C. 20231.

RECORDATION DATE: 04/17/2001

REEL/FRAME: 011768/0202

NUMBER OF PAGES: 4

BRIEF: ASSIGNMENT OF ASSIGNOR'S INTEREST (SEE DOCUMENT FOR DETAILS).

ASSIGNOR:

BROWN, KERRY

DOC DATE: 04/17/2001

ASSIGNEE:

I-BORG, INC.

11871 HILLTOP DRIVE

LOS ALTOS HILLS, CALIFORNIA 94024

SERIAL NUMBER: 09837115

PATENT NUMBER:

FILING DATE: 04/17/2001

ISSUE DATE:

MARCUS KIRK, EXAMINER ASSIGNMENT DIVISION OFFICE OF PUBLIC RECORDS

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Los Angeles, California	0025		
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Mail documents to be recorded with required cover sheet(s) information to: Commissioner of Patents and Trademarks, Box Assignments, Washington, D.C. 20231

Attorney's Docket	· ASSI	GNMENT	<u>PATENT</u>
No.: 004782.P001	(For Execution Prior T	o Filing Patent Application)	
In consideration of	of good and valuable con	nsideration, the receipt of whi	ich is hereby
acknowledged, I,			
the undersigned, Kerry	Brown		
hereby sell, assign, and	transfer to <u>I-Borg, Inc.</u>		
a corporation of Californ	nia	, having a principal place o	f business at
United States and all fore the application for the Ur	gns, and legal representa eign countries, in and to nited States patent that he erewith on the dates indice	atives, the entire right, title, a any and all improvements that has been executed by the und cated below and is entitled _T	nd interest for the at are disclosed in dersigned prior
and in and to said applications, reisapplications that have be any of said improvement certificates, and extension	ation and all divisional applications, continuations ssue applications, reexalten or shall be filed in the s; and in and to all originals, that have been or shall improvements; and in a	pplications, continuation applin-in-part applications, substitut minations, extensions, and alle United States and all foreignal patents, reissued patents, hall be issued in the United Stand to all rights of priority resu	te applications, Il other patent In countries on , reexamination tates and all

agree that said Assignee may apply for and receive a patent or patents for said improvements in its own name; and that, when requested, without charge to, but at the expense of, said Assignee, its successors, assigns, and legal representatives, to carry out in good faith the intent and purpose of this Assignment, the undersigned will execute all divisional applications, continuation applications, continued prosecution applications, continuation-in-part applications, substitute applications, renewal applications, reissue applications, reexaminations, extensions and all other patent applications on any and all said improvements; execute all rightful oaths, assignments, powers of attorney, and other papers; communicate to said Assignee, its successors, assigns, and representatives all facts known to the undersigned relating to said improvements and the history thereof; and generally assist said Assignee, its successors, assigns, or representatives in securing and maintaining proper patent protection for said improvements and for vesting title to said improvements, and all applications for patents and all patents on said improvements, in said Assignee, its successors, assigns, and legal representatives; and

covenant with said Assignee, its successors, assigns, and legal representatives that no assignment, grant, mortgage, license, or other agreement affecting the rights and property herein conveyed has been made to others by the undersigned, and that full right to convey the same as herein expressed is possessed by the undersigned.

PAGE 3

SENT BY: BSTZ;

, 425 827 5644;

	Each Inventor: Please also list the date that you signed the accompanying DECLARATION AND POWER OF ATTORNEY:
Each Inventor: Please Sign and Date Below:	
April 17, 20 01 Name: Kerry Brown	APP: L17 20 01 Date PLEASE SI
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Date Name:	Date
State of: State of: SS. BLAKELY, SOKOLOFF 12400 Wilshire Blvd., S Los Angeles, CA 9002 (425) 827-8600	Seventh Floor 25-1026
On this day of, petore me, the undersigned Notary Public, personally appeared personally known to me [] proved to me on the basis of person(s) whose name(s) subscribed to the within it that executed it. WITNESS my hand and official seal.	4 anticlarion/ evidence to be the